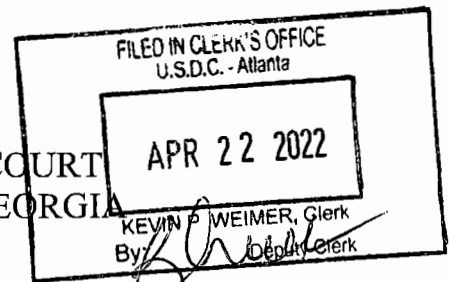


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA



REGINALD HOYLE,

Plaintiff,

VS.

COCA-COLA CONSOLIDATED, INC.
and INDEMNITY INSURANCE
COMPANY OF NORTH AMERICA,

Intervenor Plaintiffs,

VS.

JERRY MITCHELL, JR. and JR'S
TOWING & RECOVERY,

Defendants.

Civil Action

File No. 1:22-cv-00488-MLB

INTERVENOR COMPLAINT

COMES NOW, Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of North America, by and through their counsel of record, and state their complaint for intervention as follows:

COUNT ONE

1.

Defendant Jerry Mitchell, Jr. may be served through his counsel of record Grant B. Smith and Nicholas D. Bedford at 900 Circle 75 Parkway, Suite 144, Atlanta, Georgia 30339.

2.

Defendant JR's Towing & Recovery is a foreign corporation authorized to transact business in the State of Georgia. Defendant JR's Towing & Recovery may be served through its counsel of record Grant B. Smith and Nicholas D. Bedford at 900 Circle 75 Parkway, Suite 144, Atlanta, Georgia 30339.

3.

Plaintiff Hoyle is a Georgia Resident. On or about December 23, 2020, Plaintiff Reginald Hoyle, was acting in the course and scope of his employment with Coca-Cola Consolidated, Inc. and was safely operating a 2021 Mack tractor trailer that was stopped in the third lane on Camp Creek Parkway near Centre Parkway, in Fulton County, Georgia. At the same time, Defendant Jerry R. Mitchell, Jr. while acting in the course and cope of his employment with JR's Towing & Recovery was operating a 2015 Ford F650 Super Crewzer, traveling in the third lane on Camp

Creek Parkway in Fulton County, Georgia, immediately behind the vehicle driven by Plaintiff Reginald Hoyle. Defendant Jerry R. Mitchell, Jr. negligently failed to slow his vehicle and caused a rear-end collision with the vehicle operated by Plaintiff Reginald Hoyle.

4.

Plaintiff Hoyle sustained injuries to his body in the incident, and as a direct result of these injuries, he required medical care with several different medical providers.

5.

At the time of the incident, the Defendants were negligent and breached their duties of due and reasonable care to Plaintiff Hoyle as well as to other motorists on the road.

6.

Defendants were negligent, resulting in significant and permanent injuries. The negligence of the Defendants consisted of, but was not limited to, the following:

- (a) Following too closely;
- (b) Failing to exercise ordinary diligence;
- (c) Failure to maintain reasonable control of vehicle;

- (d) Failure to operate vehicle in a safe fashion under the circumstances then existing;
- (e) Failure to take evasive or other reasonable action in order to control vehicle or maintain lane;
- (f) Failure to exercise ordinary care;
- (g) Failure to keep a proper lookout;
- (h) Committing other reckless and negligent acts and omissions, as shall be shown by the evidence and proven at trial.

7.

Defendants were and are negligent *per se*.

8.

The negligence of Defendants proximately caused Plaintiff Hoyle's injuries.

COUNT TWO

Intervenor Plaintiff hereby incorporates paragraphs 1 through 8 of Count One as fully and completely as set out herein.

9.

On December 23, 2020, at the time that Mr. Hoyle sustained the above referenced injuries, Plaintiff Hoyle was acting in the course and scope of his employment with Coca-Cola Consolidated, Inc. At all times material herein, Plaintiff Reginald Hoyle has been employed by Coca-Cola Consolidated, Inc.

10.

Coca-Cola Consolidated, Inc. was insured by Indemnity Insurance Company of North America for the purposes of workers' compensation insurance coverage that has been paid on this claim at all times material herein.

11.

The December 23, 2020 accident has been accepted as a compensable work-related injury, as Plaintiff Hoyle was acting within the course of his employment with Coca-Cola Consolidated, Inc. when he sustained his injuries. As a result of the Defendants' negligence, Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of North America has paid to, or on behalf of, Plaintiff Hoyle \$49,739.86 in medical expenses. This amount continues to increase, as Plaintiff Hoyle continues to receive medical treatment for his injuries. Also as a result of the Defendants' negligence, Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of

North America has paid \$42,332.14 in workers' compensation indemnity benefits. This amount continues to increase, as ongoing workers' compensation indemnity benefits are being paid Plaintiff Hoyle.

12.

Intervenor Plaintiffs Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of North America are subrogated to the rights of Plaintiff Hoyle against the Defendants to the extent of the workers' compensation benefits paid.

13.

Intervenor Plaintiffs Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of North America have an unconditional right of intervention to protect their workers' compensation subrogation lien per O.C.G.A. § 34-9-11.1.

WHEREFORE, Intervenor Plaintiffs Coca-Cola Consolidated, Inc. and Indemnity Insurance Company of North America pray that they have judgment against the Defendant as follows:

(a) Payment or reimbursement for all medical expenses that have been or will be paid on behalf of Plaintiff Hoyle;

(b) Payment or reimbursement for all indemnity benefits that have been or will be paid to Plaintiff Hoyle;

(c) Payment or reimbursement for any permanent impairment benefits that have been or will be paid to Plaintiff Hoyle;

(d) Payment of all interest allowed by law; and

(e) Any and all other relief as the Court deems equitable, just and proper.

This 22nd day of April, 2022.

**MCANGUS GOUDELOCK AND
COURIE, LLC**

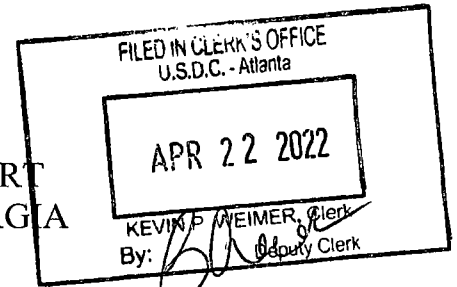
/s/ Christopher A. Whitlock

CHRISTOPHER A. WHITLOCK
Ga. Bar No.: 756210
Attorney for Intervenor Plaintiffs Coca-
Cola Consolidated, Inc. and Indemnity
Insurance Company of North America

MCANGUS GOUDELOCK AND COURIE, LLC
270 Peachtree Street, NW
Suite 1800
Atlanta, GA 30343
678-500-7300

P.O. Box 57365
Atlanta, GA 30343
cwhitlock@mgclaw.com

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CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2022, I electronically filed this Intervenor Complaint with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

Blake Fluevog, Esq.
178 S. Main Street
Unit 300
Alpharetta, GA 30009
bfluevog@forthepeople.com

Grant B. Smith, Esq.
Nicholas D. Bedford, Esq.
900 Circle 75 Parkway
Suite 1400
Atlanta, GA 30339
gbs@dcplaw.com
nbedford@dcplaw.com

This 22nd day of April, 2022.

**MCANGUS GOUDELOCK AND
COURIE, LLC**

/s/ Christopher A. Whitlock

CHRISTOPHER A. WHITLOCK
Ga. Bar No.: 756210
Attorney for Intervenor Plaintiffs Coca-
Cola Consolidated, Inc. and Indemnity
Insurance Company of North America

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